

EPA 8/14/15 comments on Swinomish subaward draft website,
<http://n1dxip.axshare.com/#p=home>

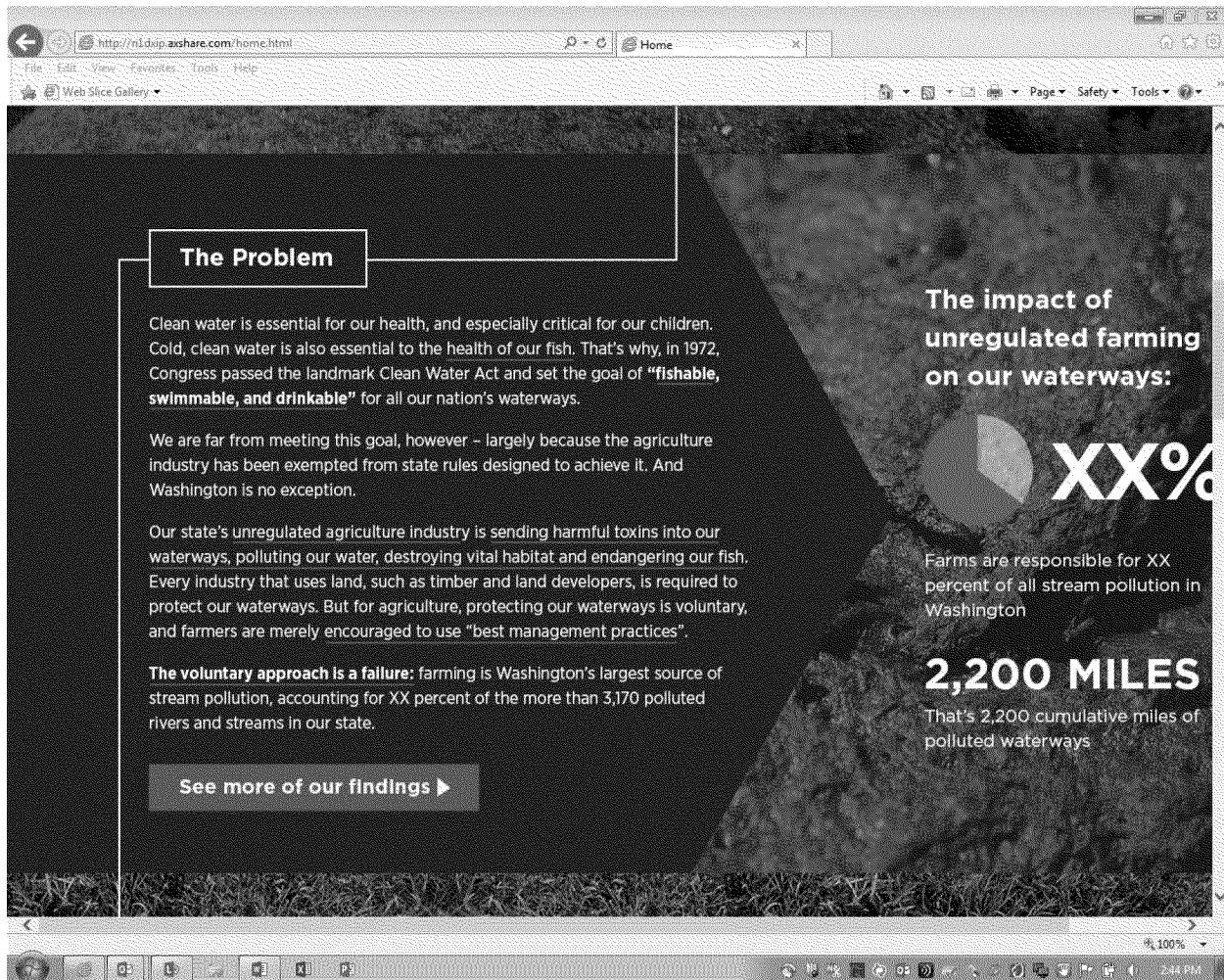
Page 1



Possible changes:

1. Edit text next to red number 1 as follows: "CLICK HERE to tell your legislators it's time for stronger ~~regulations to protection of~~ our water"
2. Suggested edit to box: "All ~~polluters of us~~ should be held accountable for our ~~their~~ impacts on ~~our~~ Washington's water, ~~our~~ health, and ~~our~~ fish."

Page 2



Suggested edits:

1. Revise the second paragraph to provide context (if desired, this can be done with an updated version of Larry's chart (which was based on data in Table 2 on p. 5 in ECY's 2001 report, <https://fortress.wa.gov/ecy/publications/summarypages/0110015.html>).

The text can read something like "Yet thousands of stream miles in Washington fail to meet this goal and remain impaired from sources including agriculture, stormwater runoff, and septic tanks. We are far from meeting this goal, ~~however – largely in part~~ because water quality permitting requirements do not apply to "non-point" sources of water pollution, which can include agricultural pollution. ~~the agriculture industry has been exempted from state rules designed to achieve it. And Washington is no exception.~~"

Note: The citation for the permitting requirement statement is 40 CFR 122.3, <https://www.law.cornell.edu/cfr/text/40/122.3>. Also, the "thousands" value in the preceding suggested text shouldn't be used unless you can verify with current information the impaired stream mile values on the website.

1. Third paragraph, "~~Our state's unregulated agriculture industry~~ Certain unregulated agricultural practices is sending harmful ~~toxins~~ pollutants into our waterways, ~~polluting~~ degrading our

water, destroying vital habitat and endangering our fish. ~~Every industry~~ Other industries that uses land, such as timber and land developers, ~~is required~~ operate under requirements to protect our waterways. But for agriculture, protecting our waterways from non-point source pollution is voluntary, and farmers are merely encouraged to use “best management practices” (or “...protecting our waterways from non-point source pollution remains is voluntary, with a minority [ARE THERE DATA ON THESE NUMBERS] who have implemented adequately protective practices and farmers are merely encouraged to use.”).

2. The assertions in the following statements must be clearly supported by a credible, current technical source:
 - a. **“The voluntary approach alone is not getting the job done is a failure: Despite years of effort by a progressive few, farming is remains** Washington’s largest source of stream pollution, accounting for XX percent of the more than 3,170 polluted rivers and streams in our state.”
 - b. “Farms are responsible for XX percent of all stream pollution in Washington. 2,200 MILES. That’s 2,200 cumulative miles of polluted waterways.”



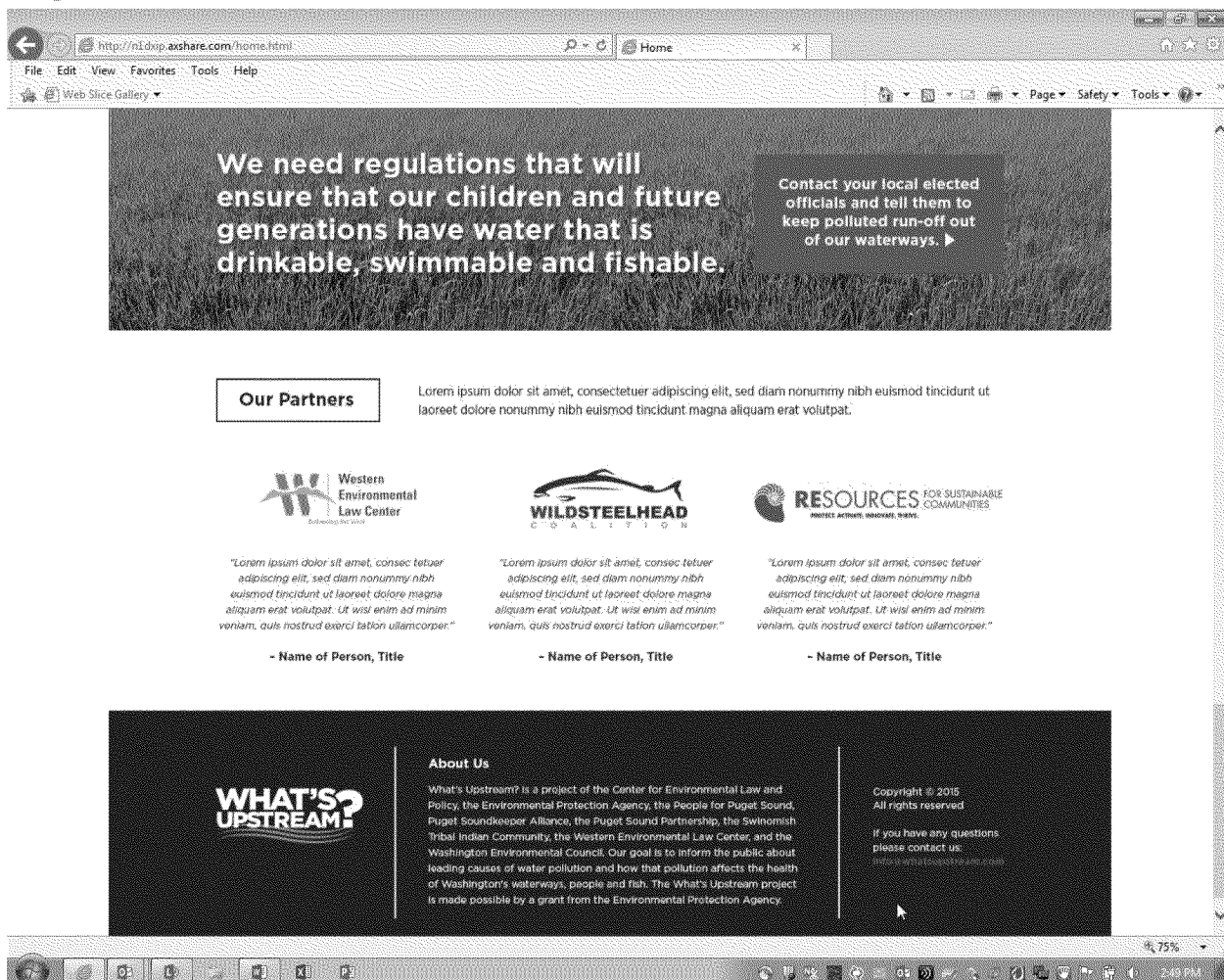
Suggested edits:

1. "Many farms use chemical pesticides, fertilizers and manure. Manure lagoons at feedlots and farming to the edge of our streams causes these ~~toxic~~ pollutants to enter into our waterways, which can result in harmful impacts to..."



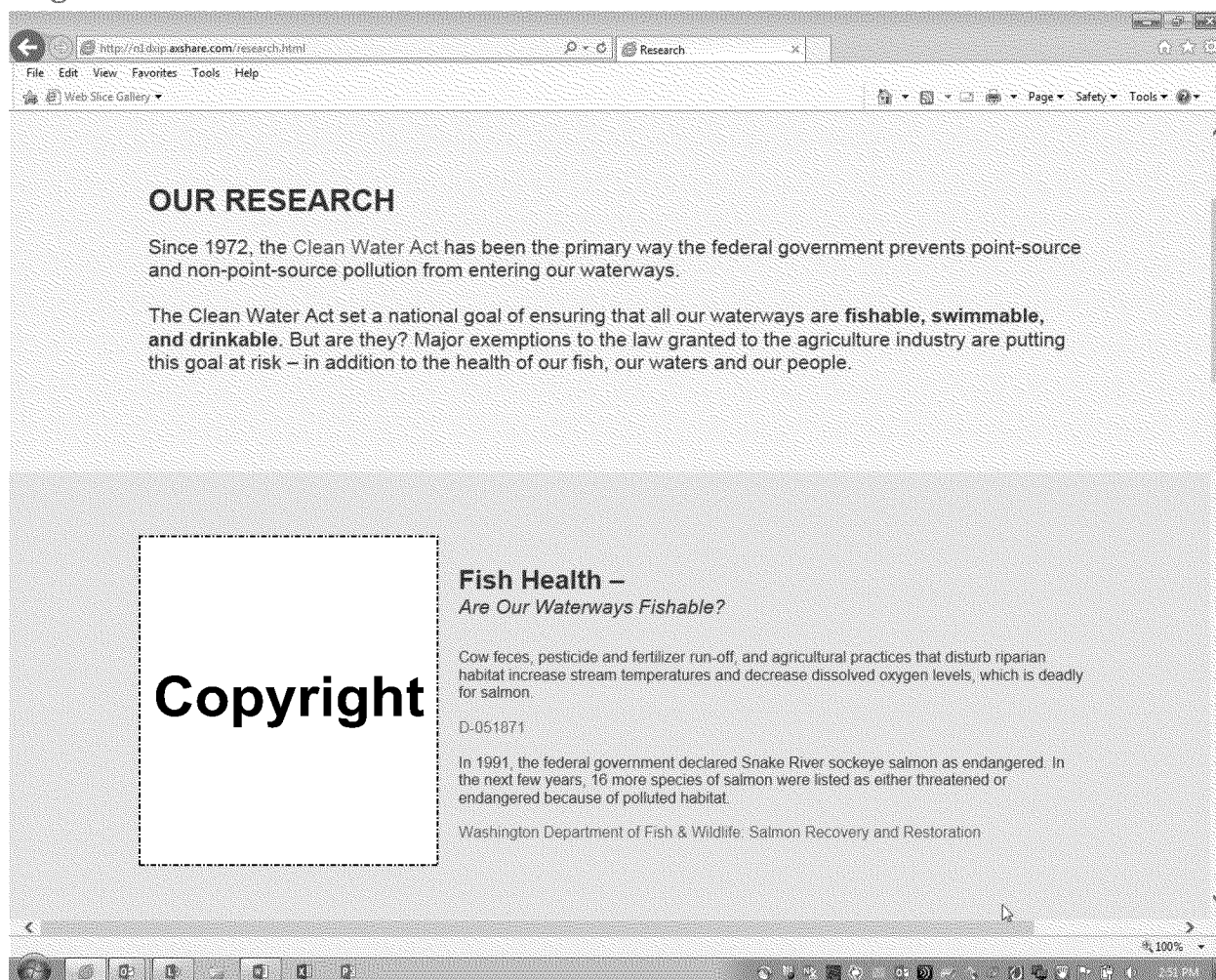
Possible changes.

1. Header, "The answer is simple." As in the letter, change to something like "A key tool is streamside buffers."
2. First paragraph. "...~~successfully prevent~~ dramatically reduce stream pollution." Citations to support this statement are needed.
3. Second paragraph. "~~Requiring 100~~ One hundred..."



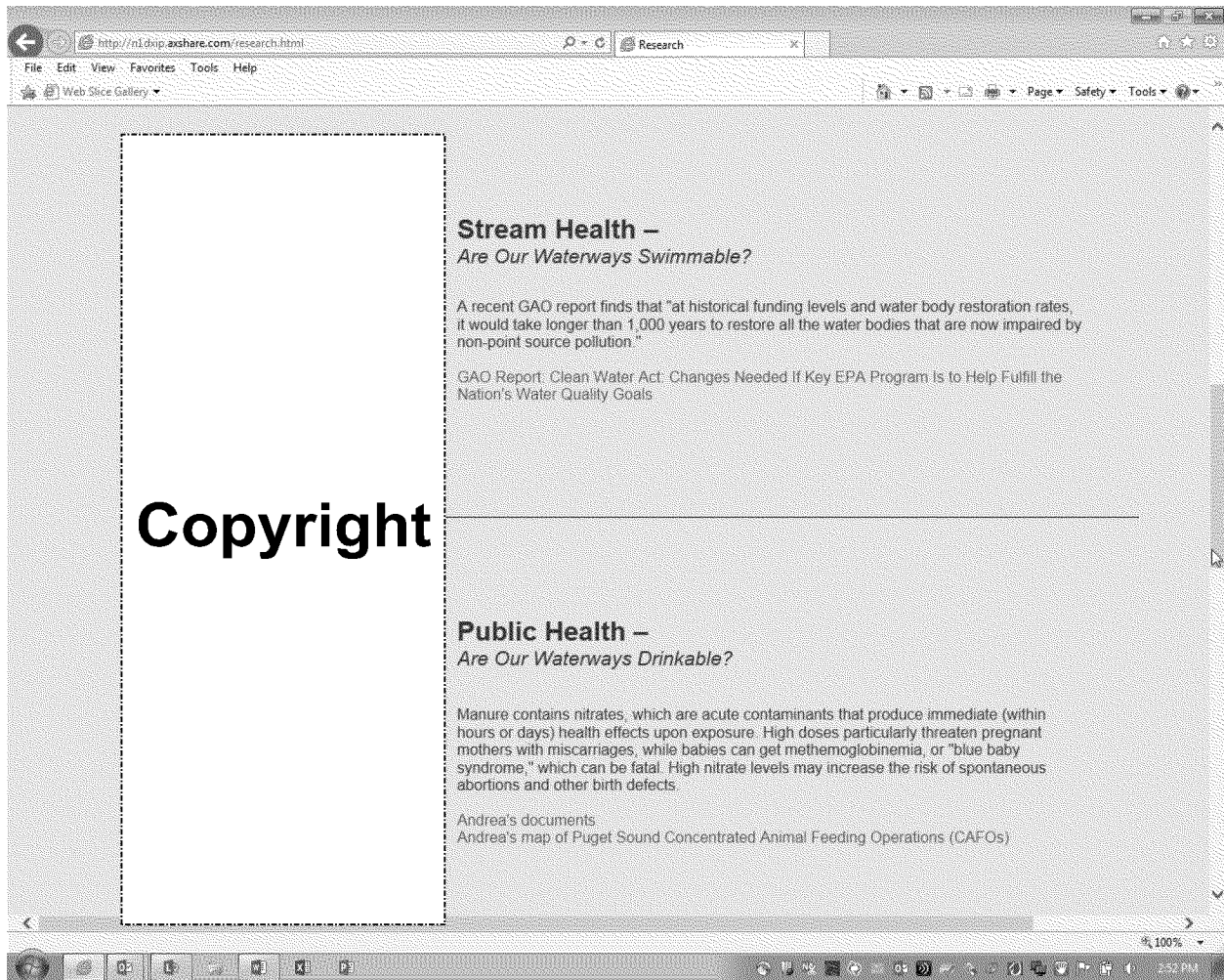
Possible changes:

1. "We need to regulations that will ensure...."
2. Under "About us," it is stated that "What's Upstream" is a project of the Tribe, CELP, EPA, PSP, WEC, and others. Have all these entities been given the opportunity to review and participate in the development of this content? Are all of them aware that this website is being presented as a joint project? This is an important point. All entities listed here should clearly agree to be listed as partners and agree with the content of this website. What process will be used to obtain and document their concurrence?



Questions/possible changes:

1. Under "Our Research:" Replace "Major exemptions to the law granted to the agriculture industry are putting..." with "Many of the nation's waters remain impaired due to agricultural non-point source pollution, which is not subject to federal water quality permitting requirements, putting..."
2. Under "Fish Health" – again, need context. Add sentence to beginning of first paragraph that says something like "Many sources lead to pollution impairments of Washington's waterways, including agriculture, stormwater runoff, septic tanks, and municipal point sources. With respect to agricultural sources, animal manure ~~Cow feces~~..."



Issues/possible changes:

1. Under "Stream Health" – if the issue is "swimmable," not all non-point source pollution is bacterial. Add a sentence, "Many of these impaired waters exceed federal and state human health guidelines for recreational use of waters." And this statement will need a citation.
2. Under "Public Health" – don't the issues cited in this section pertain mainly to subsurface (groundwater/shallow groundwater)? Is there a pattern of nitrate concentrations in rivers and streams in WA that exceed the nitrate MCL? Is it appropriate to be highlighting these issues in a section on "waterways"?

If not, suggest editing the paragraph to say something like "Again, many sources lead to pollution impairments of Washington's waterways. With respect to agricultural sources, if improperly stored or used, animal waste has the potential to contribute pollutants such as nutrients (e.g., nitrate, phosphorous), organic matter, sediments, pathogens (e.g., giardia, cryptosporidium), heavy metals, hormones, antibiotics and ammonia to the waters we use for drinking, swimming and fishing." (EPA website, accessed 8/12/15, <http://www.epa.gov/region9/animalwaste/problem.html>).

And then, add a second paragraph that says something like "High nitrate levels originating from

excess agricultural fertilizer and manure are a serious concern with respect to groundwater in certain parts of the State. Nitrates...[then continue with rest of paragraph, which should include citations]."



Comments:

1. Please confirm with ECY the following:
 - a. Under Habitat Health – do these documents represent BAS in WA on riparian buffers?
 - b. Under “Washington’s Current Regulations – does this section, including the citations, accurately reflect WA’s “current regulatory framework for protecting our waterways from pollution”?
2. Have the public opinion research results and interpretation undergone technical review by some knowledgeable external entity? In EPA comments on the FY12 workplan, we stated that “technical review is very relevant to this project” including the public opinion research work. In the subawardee’s response to this comment, a commitment was made “to develop a more formalized technical review of the project.” What were the results of the review of the public opinion research design, execution, and interpretation of results? It will be important for the research to be able to stand up to scrutiny by entities who are interested in this website and the information presented.